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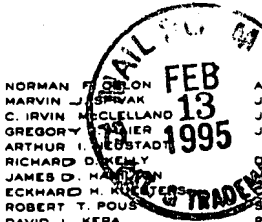
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#5
Let. re: Seq. Dtd.
w/ re: 2-14-95

Docket No. 18-859-0 PCT

HON. COMMISSIONER OF PATENTS AND TRADEMARKS
WASHINGTON, D.C. 20231

RE: Application Serial No.: 08/295,782
Applicant(s): Hitoshi NISHIYAMA, et al.
Filed: September 12, 1994
For: DEPSIPEPTIDE DERIVATIVE, PRODUCTION
THEREOF AND USE THEREOF

ATTN: APPLICATION PROCESSING DIVISION, SPECIAL
PROCESSING AND CORRESPONDENCE BRANCH

SIR:

Attached hereto for filing are the following papers:

RESPONSE TO NOTICE TO COMPLY...ACID SEQUENCE DISCLOSURES
CITED REFERENCE (1)
NOTICE TO FILE MISSING PARTS
NOTICE TO COMPLY

Our check in the amount of \$ -0- is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 CFR 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

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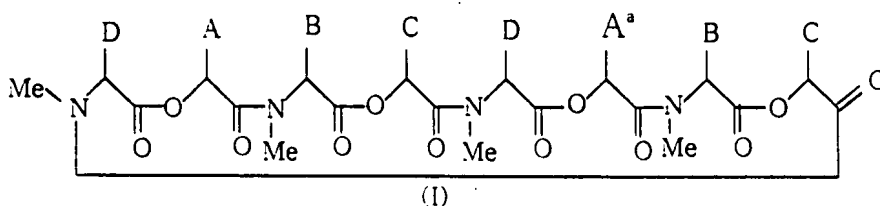
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According to 37 C.F.R. §§ 1.821-1.825 an amino acid sequence which must be represented by both a paper and a computer readable Sequence Listing consists of an unbranched sequence of four or more amino acids. Amino acids are defined under 37 C.F.R. § 1.821(a)(2) as L-amino acids. In addition, any peptide or protein expressible using the symbols contained in § 1.822(b)(2) in conjunction with a description (i.e., a

feature note) is embraced by the definition of an amino acid sequence. However, Applicants note that the sequences in the above-identified application are not included in the definition of an amino acid sequence given by 37 C.F.R. § 1.821.

The present invention relates to depsipeptide derivatives represented by the following formula (I):



Formula (I) contains alternating amino acid (moieties containing substituents D and B) and lactic acid (moieties containing substituents A, A' and C) groups. The structure of lactic acid is shown by formulas (24) and (25) on page 95 of J. March, ADVANCED ORGANIC CHEMISTRY (1985), attached herewith. Lactic acid is not an amino acid, but rather an α -hydroxy acid, and therefore, can not be represented by any of the three-letter amino acid abbreviations given in 37 C.F.R. § 1.822(b)(2). As a result, the depsipeptide shown by formula (I) does not contain a sequence of four or more amino acids or any peptide or protein that can be expressed as a sequence using the symbols in 37 C.F.R. § 1.822(b)(2).

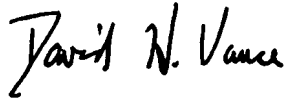
Furthermore, all of the other depsipeptides shown in the text of the above-identified application contain structures similar to that of Formula I, i.e., alternating amino acid and lactic acid. Accordingly, the sequences disclosed in the

above-identified application are not subject to the requirements of 37 C.F.R. §§ 1.821-1.825, and withdrawal of this requirement is respectfully requested.

In view of the foregoing, Applicants submit that the application is now in condition for examination on the merits. Early notification of such action is earnestly solicited.

Respectfully submitted,

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